



Region of Waterloo

## Fit for Duty

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# Fit For Duty

## 1.0 Purpose & Scope

The Region of Waterloo strives to create a safe workplace where employees, contractors, and volunteers are fit to perform all duties of their jobs. This program outlines the definition of “Fit for Duty;” criteria specific to jobs that are required to drive as a job duty; and what may occur if an employee is suspected of not being fit for duty, inclusive of accommodation.

## 2.0 Definitions

**Suspected impairment or limited cognitive ability:** the appearance of impairment at work is described as, but not limited to, having the odour of alcohol or drugs, glassy or reddened eyes, unsteady gait, slurring of words and poor coordination, exhibiting anxious behavior, or easily enraged.

**Fit for Work/Duty:** an employee is able to safely and acceptably perform assigned duties without any limitations resulting from, but not limited to:

- the use or after-effects of illicit drugs, recreational cannabis, alcohol, and/or prescribed medications;
- the misuse of and/or failure to take prescribed medications;
- extreme fatigue, as defined by physical and/or mental exhaustion that reduces a person’s alertness, such that a safety hazard is created or results in an inability to safely perform work;
- an unmanaged illness/mental illness that has been previously diagnosed by a health professional, or may have resulted from a critical stress incident that may impair judgement.

## 3.0 Roles and Responsibilities

### 3.1 The Region of Waterloo, as the Employer:

1. Provides a workplace free of discrimination.
2. Determines when testing of an employee is necessary as a result of an incident or near miss, or if there is reasonable suspicion the employee may be impaired.

3. Provides access to an Employee and Family Assistance Program (or other acceptable support program) for employees who may be experiencing challenges as they relate to the Fit for Duty Program.

### **3.2 Managers and Supervisors:**

1. Provide a workplace free of discrimination.
2. Take action when testing of an employee is determined to be necessary through reasonable suspicion and/or following an incident or near miss.
3. Establish contact with Senior Management, Human Resources & Citizen Service, a Union Representative, the third-party evaluator, and (if deemed necessary) the Project Manager overseeing the contract when an employee or contractor is exhibiting signs or symptoms of being unfit for duty.

### **3.3 Employees:**

1. **Must be free of impairing substances, in alignment with the Highway Traffic Act, if they operate a regional vehicle or equipment, or drive a personal vehicle through the course of their employment.**
2. Must come to work fit for duty and able to perform their assigned duties safely and acceptably, without limitations due to the use or after-effects of alcohol, illicit drugs, recreational drugs, non-prescription drugs, prescribed medication, extreme fatigue, or unmanaged mental illness or other illness.
3. Must disclose to the Employer through their supervisor or a Region of Waterloo Disability Claims Advisor if they are prescribed a medication or have consumed a substance that could cause impairment on the job.
4. Must participate in any required impairment testing, as determined by the Employer, when there is reasonable suspicion and/or following an incident or near miss.
5. Must disclose the need for an accommodation due to a disability prior to any incident or near miss, and provide relevant requested medical information to the Employer in a timely manner. The information will be reviewed to allow for an accommodation. The accommodation may include the need for additional testing and monitoring of the employee.
6. Must report to their immediate supervisor as soon as possible if they have knowledge of another person working for the Region (employee or contractor) who may be exhibiting signs of impairment, or have knowledge of another employee's impairment. If their immediate supervisor is not available, employees must report the situation to the next available supervisor as soon as possible. The reporting employee is expected to fully participate in any subsequent investigation. Failure to report an incident or the suspected impairment of another employee is a violation of the Occupational Health and Safety Act, which

stipulates that every worker is responsible to report the existence of any known hazard in the workplace to their Employer.

7. Must immediately inform their supervisor if they have been charged with a drug or alcohol-related driving offence under the *Criminal Code* and/or have received an administrative licence suspension under the *Highway Traffic Act* prior to operating a Region-owned vehicle or driving a personal vehicle on Region business. Each incident will be dealt with on a case by case basis. Management, in consultation with Human Resources, will determine if the employee can be accommodated.
8. Must report a cognitive impairing illness if it requires accommodation. The accommodation request must be based on medical information provided to the Employer from an acceptable medical practitioner. This information will help determine if an employee can be accommodated in their current position or if there is an opportunity to accommodate the employee in a different capacity at the Region. (For further details, please refer to [I-40 Accommodation in the Workplace Policy](#).)
9. Must not use illicit drugs, alcohol, or recreational cannabis in the workplace, with the following two exceptions:
  - a) alcohol consumption is allowable at sanctioned Region events that have obtained a liquor licence, or after the work day, when (for example) travelling on business, or after a full day seminar/conference if the employee is not returning to work
  - b) medical cannabis intake is allowable if an employee has an Employer approved (via the Disability Claims Advisor) medical accommodation plan that requires the employee to intake medical cannabis**

### **3.4 Contractors/Contractors' Employees**

1. Will leave Region of Waterloo premises when asked, if they are exhibiting signs of being under the influence or of diminished cognitive ability, via transport that ensures they safely reach their place of residence. Contractors must inform the Region's Project Manager in writing regarding how the situation/employee is being handled before the contractor's employee is able to return to the Region of Waterloo worksite.
2. Must report to their immediate supervisor as soon as possible if they have knowledge of another person working for the Region (contractor or Regional employee) who may be exhibiting signs of impairment, or have knowledge of another employee's impairment. If their immediate supervisor is not available, employees must report the situation to the next available supervisor as soon as possible. The contractor supervisor must inform the Project Manager regarding the incident. The reporting employee is expected to fully participate in any

subsequent investigation. Failure to report an incident or the suspected impairment of another employee is a violation of the Occupational Health and Safety Act, which stipulates that every worker is responsible to report the existence of any known hazard in the workplace to their Employer.

3. Must document and share this information with the Project Manager's supervisor, and Region of Waterloo Health and Safety, and Procurement staff.

## **4.0 Operating Details**

Any employee operating a Regional vehicle or equipment, or driving a personal vehicle through the course of their employment must be free of impairing substances, in alignment with the Highway Traffic Act.

Employees must come to work fit for duty and able to perform assigned duties safely and acceptably without limitations due to the use or after-effects of alcohol, illicit drugs, recreational cannabis, non-prescription drugs, prescribed medication, extreme fatigue, or unmanaged mental illness/illness.

If an employee is suspected of not being fit for duty, a supervisor may complete an evaluation in the following two circumstances:

1. Reasonable suspicion and/or,
2. Post-incident or significant near miss.

### **4.1 Reasonable Suspicion**

In situations in which there are grounds to believe an employee is unfit to be at work, the employee will be escorted to a safe place, interviewed, and given an opportunity to explain. Unionized employees will be entitled to union representation per their collective agreements. The interview will be documented on the Fit for Duty Evaluation Form (Doc# [2743843](#)).

The employee will be given an opportunity to provide a reasonable explanation for their behaviour or condition. If the explanation is not reasonable, and/or the supervisor conducting the interview still believes the employee is in a condition unfit for work, the supervisor may take any of the following actions (after consultation and agreement from another supervisor or manager):

1. If there are immediate medical concerns--make arrangements for medical attention (e.g., call 911, arrange transport to a local hospital or clinic).
2. If there are grounds to believe alcohol or drug use may be a factor, and the employee operates a Regional vehicle or drives a personal vehicle through the course of employment--refer for testing.
3. If there are grounds to believe alcohol or drug use may be a factor and the

employee does not drive a Regional vehicle or their own personal vehicle—remove the employee from duty until an investigation is completed. This investigation may include a referral to a third party for impairment testing.

In all situations, the employee will be provided with transportation and escorted to a sample collection site or hospital/clinic, depending on the circumstance. Alternatively, an approved third-party evaluator will collect appropriate samples from the employee on Regional premises, and transportation will be arranged and provided to deliver that employee to their place of residence or into the care of another adult. The employee will be temporarily removed from their duties, pending testing results and completion of an investigation. The employee may be subject to disciplinary action, as appropriate.

## **4.2 Post-Incident or Significant Near Miss**

Alcohol and drug testing and/or cognitive assessment may take place after a significant work-related incident, as part of a full investigation into the circumstances.

Only employees and contractors identified as exhibiting signs of impairment will be referred for testing. The decision to test must be made as soon as possible after the triggering event.

Reasonable grounds indicating the employee may be impaired will be documented on the Fit for Duty Evaluation Form (Doc# [2743843](#)).

The decision to refer an employee/group of employees for impairment or cognitive testing will be made by the manager and/or supervisor investigating the incident.

A significant incident would include, but not be limited to, the following:

- a fatality
- a serious personal injury to any individual requiring medical attention away from the scene, including an employee, customer, member of the public, or any other individual
- a critical injury (as defined under the Occupational Health and Safety Act)
- an environmental incident with significant implications
- significant loss or damage to property, equipment, or vehicles.

As well, management can (at its discretion), require post-incident testing after any other work-related incident or near miss considered to have had significant potential for serious consequences, as part of a complete investigation.

### **4.3 Refusal of Testing**

Any employee refusal to participate in impairment or cognitive testing will be considered a violation of the Fit for Duty Program. Refusal to participate may include any of the following:

- failure to report directly for an impairment or cognitive test
- refusal/failure to submit an impairment or cognitive test
- a confirmed attempt to tamper with an impairment test sample
- refusal to agree to disclose pass/fail results of a test to the employee's supervisor or the Region's Disability Claims Advisor
- an attempt to avoid an impairment or cognitive test by failing to report involvement in an incident which may require testing
- avoiding management following involvement in an incident.

### **4.4 Finding of a Positive Test Result:**

All positive test results for Region of Waterloo employees will be dealt with on a case by case basis. Outcomes could involve the following:

#### **4.4.1 Positive Test Result and Rehabilitation**

If a positive test occurs, the employee will be required to participate in an approved rehabilitation program, with the intent to support the employee in successful rehabilitation. The employee must successfully complete the program before integrating back into the Region.

#### **4.4.2 Post-Treatment Monitoring**

When an employee discloses to the Region a disability related to an addiction that causes impairment, and has been successful in a treatment program, the Region may require unannounced testing as part of the return to work plan. This is to ensure the safety of the employee, colleagues, contractors, and members of the public, while supporting the employee's recovery and assuming regular duties after primary treatment for alcohol or drug addiction.

Where the employee is represented by a Union, the Union will be involved in any return to work agreement. If the employee and/or Union decline to participate in the process, the Region reserves the right to implement return to work conditions that may include testing, as appropriate.

#### **4.4.3 Return to Duty Post-Violation**

In situations in which an employee has a positive test result (from a reasonable suspicion test or post-incident/significant near miss test) and employment is continued, the employee will be required to pass return to work testing, and/or may be subject to unannounced testing as a condition of continued employment.

Where the employee is represented by a Union, the Union will be involved in the return to work agreement. If the employee and/or Union decline to participate in the process, the Region reserves the right to implement return to work conditions that may include testing, as appropriate.

#### **4.4.4 Performance Management**

Confirmed violations of the Fit for Duty Program will be taken seriously and subject to corrective action and/or discipline, up to and including dismissal.

### **4.5 Possession of Alcohol or Drugs by Employees on Region Premises**

The Region reserves the right to investigate any situation when there are reasonable grounds to believe that prohibited substances are present on Regional premises or worksites in violation of this Program.

Supervisors are responsible for identifying situations in which searches may be justified, based on indicators such as employee behavior, odours, the presence of drug paraphernalia, or information from a third party. Supervisors are also responsible for informing their managers of these situations. Managers, in consultation with Senior Management and Employee Relations staff, are responsible for deciding whether and how to initiate searches, and, if warranted, reasonable suspicion testing.

#### **4.6 Accommodation:**

The Region will make all reasonable efforts to accommodate employees in the workplace as stipulated under the Ontario Human Rights Code, Workplace Safety and Insurance Act, Employment Standards Act, and Accessibility for Ontarians with Disabilities Act.

For further details please refer to [I-40 Accommodation in the Workplace Policy](#).

## **5.0 Training**

All staff will be trained on the Fit for Duty Program during their orientation to the Region.

## **6.0 Supporting Documentation**

HRC Policy I-40 Accommodations in the Workplace  
Fit for Duty Evaluation Form and Flow Chart

## **7.0 References**

Canadian Center for Occupational Health and Safety  
Highway Traffic Act  
Occupational Health and Safety Act  
Workplace Safety and Insurance Act  
Ontario Human Rights Code  
Employment Standards Act